

ENGINEERING SERVICES AGREEMENT

BETWEEN

GREAT LAKES WATER AUTHORITY, A MICHIGAN MUNICIPAL AUTHORITY

AND

CONTRACT NO. GLWA-CS-108

CONTRACT PURCHASE ORDER NO. _____

**PROFESSIONAL ENGINEERING SERVICES FOR AUTOMATION
NEEDS ASSESSMENT OF WATER TREATMENT PLANTS**

MONTH/YEAR

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ENGINEERING SERVICES AGREEMENT

This Engineering Services Agreement (“Agreement”) is made by and between the Great Lakes Water Authority, a Michigan municipal authority and public body corporate organized pursuant to Act 233 of 1955, with its principal place of business located at 735 Randolph, Detroit, Michigan 48226 (“GLWA”), and _____ a _____, with offices located at _____ (“Engineer”).

Recitals

Whereas, the GLWA desires to retain the Engineer for purposes of securing from the Engineer certain design services generally described in attached Exhibit A (the “Work”) relating to the project generally described in attached Exhibit A (the “Project”); and

Whereas, the Engineer desires to perform the Work in accordance with this Agreement; and

Accordingly, in consideration of the promises, the mutual undertakings and benefits to accrue to the parties and to the public, the parties agree as follows:

Article I Employment of Engineer

1.01 The GLWA hereby engages the Engineer and the Engineer hereby agrees to faithfully and diligently perform the Work in accordance with the terms and conditions contained in this Agreement. This Agreement shall be administered by GLWA and the Engineer shall perform the Work at the direction of GLWA as set forth herein.

1.02 If all or portions of the Work will be funded by the State Revolving Loan Fund as defined in, and in accordance with the U.S. Environmental Protection Agency (“EPA”) regulations as administered by the Michigan Department of Environmental Quality, it must be noted that neither the United States, the U.S. Environmental Protection Agency, the State of Michigan, nor the Michigan Department of Environmental Quality is a party to the Agreement.

Article II Contracting Officer

2.01 The Contracting Officer shall be the CEO of GLWA or an employee of GLWA named as such by the CEO. The Contracting Officer has the rights and authority assigned to the Contracting Officer in this Agreement. The term “Contracting Officer” shall include certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

Article III Engineer’s Basic Services

3.01 The Work shall include, without limitation, the services identified in the Work Plan attached hereto as Exhibit B (the “Work Plan”). The Engineer shall perform the Work in

accordance with the requirements of this Agreement, including, without limitation, the General Conditions attached hereto as Exhibit C.

Article IV
Commencement and Completion; Schedule

4.01 The Work shall be started by the date specified in the Notice to Proceed and shall be completed prior to the time indicated for Final Completion on the Critical Path Methods (“CPM”) Schedule approved by the Contracting Officer and attached hereto as part of the Work Plan. The Engineer will have no authority to start the Work, and no payments will be made, prior to the issuance of the Notice to Proceed.

4.02 The Engineer shall strictly adhere to the CPM Schedule. The Engineer is not, however, to proceed from one phase to the next without the written approval of the preceding phase and authorization by the Contracting Officer.

Article V
Contract Price; Terms of Payment

5.01 Subject to the performance by the Engineer of its obligations hereunder, the GLWA agrees to pay the Engineer for the performance of the Work the sum of _____ and 00/100 Dollars (\$0.00) (the “Contract Price”), payable as set forth below and in the Costing Summary set forth in Exhibit D attached hereto (the “Costing Summary”).

5.02 Subject to other provisions of this Agreement, and provided that the Engineer has submitted to the Contracting Officer an Application for Payment in a form acceptable to the Contracting Officer on or before the 1st day of the month for work completed through the last day of the previous month, the GLWA shall make payment of the amounts properly due the Engineer on or before the 15th day of the month following the month in which the relevant Application for Payment is received. Applications for Payment shall be proportioned for each phase of the Work in accordance with the CPM Schedule.

5.03 The Engineer shall be reimbursed for the reimbursable expenses set forth on the Costing Summary. The Engineer shall present each month a statement of reimbursable expenses for the preceding month. The Engineer expressly waives any right to payment for any reimbursable expenses other than those described above if the Engineer does not secure the Contracting Officer’s prior written approval of such reimbursable expenses. The Engineer further waives any right to payment for any reimbursable expense if the Engineer fails to invoice GLWA for same within thirty (30) days following the date on which the expense was incurred. Notwithstanding anything contained herein to the contrary, in no event shall the reimbursable expenses described in the Costing Summary exceed, in the aggregate, throughout the term of the Agreement, the Contract Price unless otherwise agreed to by GLWA in writing.

5.04 Upon Final Completion of the Work, the Engineer shall request Final Payment. Upon written acceptance of Final Completion by the Contracting Officer, the Final Payment shall

be made. Acceptance of the Final Payment by the Engineer shall constitute accord and satisfaction of all claims against GLWA of whatsoever kind or nature under the Agreement.

5.05 Invoices shall be submitted electronically each month and must be received by GLWA not more than thirty (30) days after the close of the immediately preceding calendar month. Invoices shall be submitted by E-mail to: accountspayable@glwater.org.

Article VI
Insurance

6.01 The Engineer shall provide the insurance required in Exhibit F attached hereto and made a part hereof. The Engineer acknowledges that it has read and understands the insurance requirements set forth in attached Exhibit F and agrees that it shall comply with the terms and conditions thereof at no additional cost to GLWA.

Article VII
Notices

7.01 Except as otherwise specified herein, all notices, consents, approvals, requests and other communications (herein collectively called "Notices") required or permitted under the Agreement shall be given in writing and mailed by first class mail, addressed as follows:

If to the GLWA:

Chief Executive Officer
Great Lakes Water Authority
735 Randolph, Suite 1900
Detroit, Michigan 48226
ATTN: Construction and Contract Services Procurement Manager

If to the Engineer, to the address and to the attention of the person designated on Exhibit E "Designation of Notice Address".

7.02 All Notices shall be deemed given on the day of deposit in the U.S. Mail, first class postage prepaid. Any Notice given by a party hereunder must be signed by an authorized representative of such party.

7.03 Notwithstanding the requirement above as to the use of first-class mail, change of address notices, termination notices, and other Notices of a legal nature, shall be sent by certified first-class mail, postage prepaid, return receipt requested.

Article VIII
Miscellaneous Provisions

8.01 No failure by GLWA to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right, term or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or such covenant, agreement, term and condition. No waiver of any breach shall affect or alter this Agreement, but

each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

8.02 If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

8.03 This instrument and all Exhibits designated herein and attached hereto contain the entire agreement between the parties and all prior negotiations and agreements are merged herein. Neither GLWA nor GLWA's agents have made any representations except those expressly set forth herein, and no rights or remedies are or shall be acquired by the Engineer by implication or otherwise unless expressly set forth herein.

8.04 Unless the context otherwise expressly requires, the words "herein", "hereof", and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision

8.05 All the terms and provisions of this Agreement shall be deemed and construed to be "covenants" and "conditions" as though the words specifically expressing or imparting covenants and conditions were used in each separate term and provision.

8.06 The headings of the Articles in this Agreement are for convenience only and shall not be used to construe or interpret the scope or intent of this Agreement or in any way affect the same.

8.07 The rights and remedies set forth herein are not exclusive and are in addition to any of the rights and remedies provided by law or equity. This Agreement and all actions arising hereunder shall be governed by, subject to, and construed according to the laws of the State of Michigan. The Engineer agrees, consents and submits to the personal jurisdiction of any competent court in Wayne County, Michigan, for any action arising out of this Agreement. The Engineer agrees that service of process at the address and in the manner specified in Article 7 "Notices" will be sufficient to put the Engineer on notice and hereby waives any and all claims relative to such Notice. The Engineer also agrees that it will not commence any action against the GLWA because of any matter whatsoever arising out of or relating to the validity, construction, interpretation and enforcement of this Agreement, in any courts other than those in the County of Wayne, State of Michigan, unless original jurisdiction can be had in the United States District Court, Eastern District, Southern Division, the Michigan Court of Appeals or the Michigan Supreme Court.

8.08 If any Subcontractor shall take any action which, if done by a party, would constitute a breach of this Agreement, the same shall be deemed a breach by the Engineer with right legal effect.

8.09 It is understood that this is not an exclusive service contract and that, during the term of this Agreement, GLWA may contract with other consulting firms and contractors. It is also understood that the Engineer is free to render the same or similar services to other clients, provided

however, that the Engineer's obligations to GLWA contained in this Agreement will not be affected in any manner.

8.10 The Engineer warrants that all of the prices, terms, warranties and benefits granted to GLWA are comparable to or better than the equivalent terms presently being offered by the Engineer to any other customer for the performance of the Work.

8.11 The Engineer covenants that it is not, and will not become in arrears to the GLWA upon any contract, debt, or other obligations to GLWA. The Engineer agrees to include this provision in any Subcontracts for the Work.

8.12 This Agreement may be executed in any number of counterparts and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Promptly after the execution hereof, GLWA shall submit to the Engineer a confirmed copy of this Agreement.

8.13 As used herein, the singular shall include the plural, and the plural singular.

8.14 This Agreement shall not be construed to create any rights in any third party.

8.15 No part of this Agreement may be waived except by the written agreement of the parties. Forbearance in any form from demanding performance is not a waiver of performance. Until complete performance under this Agreement, the party owed performance may invoke any remedy under this Agreement or under law, despite its past forbearance.

8.16 The Engineer shall not assign all or any part of this Agreement, nor any Work, nor any payments due or to become due hereunder, without first obtaining consent in writing from GLWA.

GLWA shall be permitted to assign this Contract to any successor in interest without the prior consent of the Contractor. As soon as practicable thereafter, GLWA shall provide written notice to Contractor of the assignment.

8.17 Nothing contained herein shall be construed as to create a relationship of employment, principal and agent, or joint venture between GLWA and the Engineer. It is agreed and understood that the Engineer is an independent contractor with respect to the Work to be performed hereunder.

8.18 To induce GLWA to enter into this Contract, the Engineer represents and warrants that it is authorized to do business under the laws of the State of Michigan, is duly qualified to perform the Services as set forth in this Contract, and that the execution of this Contract is within the Engineer's authorized powers and is not in contravention of federal, state or local law. The Engineer further represents and warrants that this Contract has been duly authorized and executed by an individual authorized to bind the Engineer to its terms and conditions in accordance with the Engineer's requirements and procedures and constitutes a legal, valid and binding obligation of the Engineer.

8.19 Capitalized terms, which are not defined herein shall have the meanings ascribed in the Glossary attached as Exhibit G.

8.20 When the Work includes the installation of certain equipment and/or products, Engineer is required to review the proposed equipment/products to ensure that they are, at a minimum, “Energy Star” rated. All proposed equipment/product choices must be reviewed by a qualified GLWA Energy Manager for approval only as to the sufficiency of the “Energy Star” rating and/or other applicable energy efficiency ratings; GLWA assumes no responsibility for the adequacy, capability or appropriateness of the equipment/product selected by Engineer as it relates to successful completion of the Work.

(Signatures appear on next page)

Accordingly, GLWA and the Engineer by and through their duly authorized officers and representatives have executed this Agreement as of the dates of their respective signatures below.

_____:

Signature: _____

Print Name: _____

Title: _____

Dated: _____

Great Lakes Water Authority:

Signature: _____

[Type in name]

Title: _____

[Type in title]

Dated: _____

APPROVED BY GLWA
BOARD OF DIRECTORS ON: _____

APPROVED AS TO FORM BY
GLWA GENERAL COUNSEL:

Signature

Date

EXHIBIT A

GENERAL DESCRIPTION OF THE WORK AND PROJECT

The Project:

The Work: Attached in Exhibit B

Key Personnel/Approved Subcontractors: Attached to this Exhibit A

Time of Performance: _____ from Notice to Start Work

EXHIBIT B

THE WORK PLAN

EXHIBIT C

GENERAL CONDITIONS

ARTICLE 1 GENERAL PROVISIONS

1.1 DEFINITIONS Unless the context expressly requires otherwise, defined terms used herein shall have the meanings set forth in the Glossary attached to the Agreement as Exhibit G.

1.2 RELATIONSHIP OF THE PARTIES

1.2.1 The Engineer accepts the relationship of trust and confidence established between the Engineer and GLWA by the Agreement. The Engineer agrees to furnish the services set forth in the Agreement and to use best efforts to complete the Work in the best and soundest way and in the most expeditious and economical manner consistent with the interests of GLWA. The Engineer acknowledges that GLWA is relying on the Engineer's skill and integrity to produce work suitable for GLWA's intended purposes. Throughout the course of the Agreement, the Engineer shall provide professional advice and consultation to the Contracting Officer and/or their authorized representatives.

1.2.2 It is intended that the Engineer will assume full responsibility and liability with respect to design of the Project in accordance with applicable professional standards and the requirements herein and will indemnify, defend and hold harmless the Indemnitees (as defined in Section 2.9.1) with respect to any defects in the design of the Project which may relate to errors, omissions, inconsistencies or other defects therein. The Engineer assumes and accepts full responsibility to GLWA for the accuracy, adequacy, consistency, buildability and completeness of the Construction Documents.

1.2.3 By executing the Agreement, the Engineer represents that it is financially solvent; that it is qualified to do business in the State of Michigan, that it has all required licenses and permits necessary in connection with performance by Engineer under the Agreement (all such licenses and permits shall be at the Engineer's sole cost and expense); that it has the expertise and authority to perform its obligations under the Agreement; that it has inspected the Project and the Work and familiarized itself with the local conditions (including, both all physical conditions and all local codes, laws and applicable regulations) under which the Work is to be performed; that it is familiar with all federal, state, municipal and county laws, ordinances and regulations which may, in any way, affect the Work or those employed therein, including, but not limited to, those particularly applicable to the Project; and that the Contract Price is the agreed amount for all the Work, including all risks, hazards, and difficulties in connection therewith assumed by the Engineer under the Agreement. Each Subcontractor shall review the foregoing representations and shall be deemed to have made the same representations to GLWA in performing any portion of the Work on the Project.

1.2.4 The relationship between the Engineer and GLWA shall be that of an independent contractor. The Agreement shall not be construed to create any third party beneficiaries or to create any rights in any third parties.

ARTICLE 2
ENGINEER'S OBLIGATIONS

2.1 GENERAL OBLIGATIONS

2.1.1 The Engineer's general obligation is to design the Project. The Engineer shall deliver the Project in phases, based on the applicable completion milestones set forth in the CPM Schedule approved by the Contracting Officer.

2.1.2 The Engineer shall furnish the design of the Project (a) in accordance with all professional engineering principles generally accepted as standards of the industry for projects of similar technology, size, scope and complexity at the time the design Work is furnished, and for the purpose of this subsection (a) industry standards shall be those of the United States, or, if more stringent, those generally accepted or observed, and (b) in accordance with applicable laws, rules, regulations, codes and ordinances and the criteria of performance, reliability and availability set forth in the Agreement.

2.1.3 At all times during the term hereof, including during the course of, and notwithstanding the existence of, any dispute, the Engineer shall perform in a diligent manner and without delay, shall abide by the decision or order of the Contracting Officer, and shall comply with all applicable provisions of the Agreement. The Engineer shall be responsible for the professional quality, technical accuracy and coordination of all designs, Drawings, Specifications, and other work furnished by Engineer and its Subcontractors under the Agreement. The Engineer shall, without additional compensation, promptly correct or revise any errors or deficiencies in its completed designs, Drawings, Specifications or other portions of the Work.

2.1.4 At all times the Engineer shall provide a Project Manager approved by the Contracting Officer who (a) will have full responsibility for the prosecution of the Work, (b) will act as agent and be a single point of contact in all matters on behalf of the Engineer, and (c) will be available to execute instructions and directions from the Contracting Officer or its authorized representatives.

2.1.5 The Engineer shall be responsible to GLWA for the acts and omissions of its employees. The Engineer shall be as fully responsible to GLWA for the acts of its Subcontractors, Sub-Subcontractors, their agents and persons directly or indirectly employed by them, and other persons performing any of the Work as it is for the acts and omissions of persons directly employed by the Engineer

2.1.6 The Engineer shall not be relieved from its obligations to perform the Work in accordance with the Agreement either by the activities or duties of the Contracting Officer or by inspections, tests or approvals required or performed by persons other than the Engineer. No inspection performed or failed to be performed by GLWA hereunder shall be a waiver of any of the Engineer's obligations hereunder or be construed as an approval or acceptance of the Work or any part thereof.

2.1.7 The Engineer, at the request of the Contracting Officer, will attend, make presentations and participate in Project meetings and other Project-relevant community and public meetings. The Engineer, if directed by the Contracting Officer, will provide materials describing

the services rendered or that will be rendered by the Engineer, and their current progress, when such material is required or appropriate for such meetings and presentations.

2.2 SCHEMATIC DESIGN PHASE

2.2.1 The Engineer shall review the program furnished by the Contracting Officer to ascertain the requirements of the Project and shall review the understanding of such requirements with the Contracting Officer.

2.2.2 The Engineer shall provide a preliminary evaluation of the program and the Project budget requirements, each in terms of the other.

2.2.3 The Engineer shall review with the Contracting Officer alternative approaches to design and construction of the Project.

2.2.4 Based on the mutually agreed upon program and Project budget requirements, the Engineer shall prepare, for approval by the Contracting Officer, Schematic Design Documents consisting of Drawings and other documents illustrating the scale and relationship of Project components.

2.2.5 Upon completion of the Schematic Design Phase, the Engineer shall provide Drawings and other documents in reproducible form and digital documents as specified by the Contracting Officer. Digital format shall include all of the following: (i) copies of all drawing files in the resident format of the CAD program used to create them; (b) plot files for all printed sheets in the reproducible drawing set provided; (iii) a "PDF File" version of each printed sheet in the reproducible drawing set; and (iv) all digital files shall be presented on compact disc media.

2.3 DESIGN DEVELOPMENT PHASE

2.3.1 Based on the approved Schematic Design Documents and any adjustments authorized by the Contracting Officer in the program or Project budget, the Engineer shall prepare, for approval by the Contracting Officer, Design Development Documents consisting of Drawings and other documents to fix and describe the size and character of the entire Project as to architectural, structural, mechanical, electrical and plumbing systems, materials and such other elements as may be appropriate.

2.3.2 Upon completion of the Design Development Phase, the Engineer shall provide Drawings and other documents in reproducible form and digital documents as specified by the Contracting Officer. Digital format shall include all of the following: (i) copies of all drawing files in the resident format of the CAD program used to create them; (b) plot files for all printed sheets in the reproducible drawing set provided; (iii) a "PDF File" version of each printed sheet in the reproducible drawing set; and (iv) all digital files shall be presented on compact disc media.

2.4 CONSTRUCTION DOCUMENTS PHASE

2.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the project or in the Project budget authorized by the Contracting Officer, the Engineer shall prepare, for approval by the Contracting Officer,

Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

2.4.2 The Engineer shall assist the Contracting Officer in the preparation of the necessary bidding information.

2.4.3 The Engineer shall assist Contracting Officer in connection with the filing of documents required for the approval of governmental authorities having jurisdiction over the Project.

2.4.4 Upon completion of the Construction Documents Phase, the Engineer shall provide Drawings and other documents in reproducible form and digital documents as specified by the Contracting Officer. Digital format shall include all of the following: (i) copies of all drawing files in the resident format of the CAD program used to create them; (b) plot files for all printed sheets in the reproducible drawing set provided; (iii) a "PDF File" version of each printed sheet in the reproducible drawing set; and (iv) all digital files shall be presented on compact disc media.

2.5 BIDDING PHASE

2.5.1 If requested by the Contracting Officer, the Engineer, following the Contracting Officer's approval of the Construction Documents, shall assist the Contracting Officer in obtaining bids, and assist in awarding and preparing contracts for construction.

2.5.2 If requested by the Contracting Officer, the Engineer shall arrange for procuring the reproduction of Bidding Documents for distribution to prospective bidders. GLWA shall pay directly for the cost of reproduction or shall reimburse the Engineer for such expenses.

2.5.3 If requested by the Contracting Officer, the Engineer shall distribute the bidding documents to prospective bidding and request their return upon completion of the bidding process. The Engineer shall maintain a log of distribution and retrieval, and the amounts of deposits, if any, received from and returned to prospective bidders.

2.5.4 The Engineer shall consider requests for substitutions, and shall prepare and distribute Addenda identifying approved substitutions to all prospective bidders.

2.5.5 The Engineer shall participate in or, at the Contracting Officer's direction, shall organize and conduct a pre-bid conference for prospective bidders.

2.5.6 If requested by the Contracting Officer, the Engineer shall evaluate the reasonableness of bids and their compliance with the requirements of the bidding documents. The Engineer shall render its opinion of qualification with a confidential report to the Contracting Officer on all information known or ascertainable by reasonable inquiry, bearing on the qualifications of the three (3) lowest bidders on each contract for which contractor qualifications are required by the bidding documents.

2.6 DESIGN REVIEW

2.6.1 The Engineer shall furnish the design of the Project by preparing and delivering to the Contracting Officer the Schematic Design Documents, Design Development Documents and the Construction Documents. The Engineer shall cause all documents to be produced and delivered to the Contracting Officer within the time periods and according to the completion milestones set forth in the CPM Schedule.

2.6.2 The Contracting Officer shall have the right to review, comment on and object to the materials prepared by the Engineer during its performance of the Work. The Contracting Officer will coordinate all Contracting Officer design review comments and will deliver such comments to the Engineer. The Contracting Officer shall have the applicable review periods set forth in the CPM Schedule. The Engineer shall obtain the Contracting Officer's written approval of any deviations from the requirements of the Agreement.

2.6.3 The Engineer shall respond to all the Contracting Officer's comments and make modifications as necessary to fully reflect such comments. The Engineer acknowledges that comments may be provided which reflect concerns regarding operability or preferences of the commenter. The Engineer agrees to undertake reasonable efforts to accommodate or otherwise resolve any such comments. If the Engineer does not accommodate or otherwise resolve any comment, the Engineer shall deliver to the Contracting Officer within a reasonable time period, not to exceed fourteen (14) days after receipt of the Contracting Officer's comments, a written explanation why modifications based on such comments are not required. The explanation shall include facts, analyses and reasons that support the conclusion. Any failure of the Engineer to so notify the Contracting Officer shall constitute the Engineer's full acceptance of all responsibility for changes made to in response to such comments and shall be treated for all purposes hereunder as if the Engineer had initiated such changes.

2.6.4 The Engineer shall be responsible for handling all design reviews required by, and obtaining all design approvals of any third parties as required.

2.7 OWNERSHIP OF DRAWINGS AND SPECIFICATIONS

2.7.1 All Drawings, Specifications, reports and other data (including without limitation, written, printed, graphic, video and audio material contained in any computer data base or computer readable form) (hereinafter "Works of Authorship") developed during the term of the Agreement are the property of GLWA. Works of Authorship created during the term of the Agreement are "Works for Hire," as that term is defined in copyright law. GLWA shall own all rights to any inventions, discoveries, new uses, advances on the state of art, protocols, ideas, products, or other protectable rights arising from any activities within the scope of the Agreement (hereinafter "Inventions"). The Engineer shall execute all documents, provide all information, and otherwise take all actions requested by GLWA including, without limitation, assignments of any rights the Engineer may have in such works, to secure for GLWA the ownership rights and available legal protections for all Works of Authorship or Inventions. The Engineer expressly disclaims any rights in Works of Authorship or Inventions related to the performance of services under the Agreement. In the event of termination of the Agreement for any reason, the Engineer

shall promptly deliver to the Contracting Officer one complete set of all Drawings and Specifications prepared to the date of termination in the digital formats required by the Agreement.

2.8 COOPERATION

2.8.1 The Engineer shall cooperate with GLWA and its consultants for the Project in their review and oversight of the design of the Project and their oversight and conduct of inspections during the construction of the Project.

2.9 INDEMNIFICATION

2.9.1 To the fullest extent permitted by law, the Engineer shall defend, indemnify and hold harmless GLWA and its respective directors, officers, employees, representatives and agents (the "Indemnitees") from and against claims, damages, losses, and expenses (including but not limited to attorney fees) arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. The Engineer shall not be required to defend or indemnify GLWA for damages caused by the sole negligence of GLWA. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 2.9.1.

2.9.2 To the fullest extent permitted by law, the Engineer shall defend, indemnify and hold harmless the Indemnitees from and against all claims, liability, cost and expense (including, without limitation, attorneys fees) resulting from claims against the Indemnitees attributable to bodily injury in connection with the Project by any employee of the Engineer, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, whether or not caused in whole or in part by the negligence of the Engineer, excepting only claims caused by the sole negligence of the Indemnitees hereunder. In any and all claims against the Indemnitees by any employee of the Engineer, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph 2.9.2 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Engineer or any Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

2.9.3 The obligations of the Engineer under this Paragraph 2.9 shall survive the termination of the Agreement as to all matters arising prior to the date of termination and shall be fulfilled at no cost or expense to GLWA.

2.10 ROYALTIES AND PATENTS

2.10.1 The Engineer shall pay all royalties and license fees. The Engineer warrants that its design work will not violate or infringe upon any patent rights or copyrights of any third party. The Engineer shall defend, with counsel reasonably acceptable to GLWA, all suits or claims for infringement of any patent rights or copyrights and shall indemnify, defend and save the Indemnitees harmless from all loss, cost or expense (including attorneys fees) on account thereof.

Notwithstanding the foregoing, the Engineer shall not be responsible for infringement of patent rights or copyrights where a particular design process or product of a particular manufacturer is specified by GLWA and the Engineer has no reason to believe that such design process or product specified is an infringement of a patent or copyright.

ARTICLE 3 CONTRACTING OFFICER

3.1 DESIGN REVIEW

3.1.1 The Contracting Officer shall render decisions in a timely manner pertaining to documents submitted by the Engineer in order to avoid unreasonable delay in the orderly and sequential progress of the Work. GLWA may obtain independent review of the documents by a separate architect, engineer, or cost estimator under contract to or employed by GLWA. Such independent review shall be undertaken at GLWA's expense.

3.1.2 GLWA shall not be stopped, bound, or precluded by any determination, return, decision, approval, order, letter, payment or certificate made or given by the Contracting Officer or any other officer, employee or agent of GLWA, at any time, either before or after Final Completion and acceptance of the Work and payment therefore from: (i) showing the true and correct amount, classification, quality, and character of the Work completed and materials furnished by the Engineer or any other person or entity performing the Work under the Agreement, or from showing at any time that any determination, return, decision, approval, order, letter, payment, or certificate is untrue and incorrect, or improperly made in any particular, or that the Work or the materials or any parts thereof, do not in fact conform to the requirements of the Agreement; or (ii) from demanding the recovery of any overpayments made to the Engineer, or such damages as GLWA may sustain by reason of failure to strictly perform each and every term, provision or condition of the Agreement.

ARTICLE 4 GLWA

4.1 INFORMATION AND SERVICES REQUIRED OF THE GLWA

4.1.1 Information or services under GLWA's control shall be furnished by GLWA with reasonable promptness after written request to avoid delay in the orderly progress of the Work. Notwithstanding the foregoing, the Engineer agrees that it has full responsibility for the design of the Project. The Engineer is not entitled to rely on any of the documents or information provided by GLWA, except to the extent expressly provided otherwise in the Agreement.

4.1.2 GLWA DOES NOT REPRESENT OR WARRANT THAT THE INFORMATION CONTAINED IN THE REFERENCE DOCUMENTS PROVIDED TO THE ENGINEER IS EITHER COMPLETE OR ACCURATE.

ARTICLE 5 SUBCONTRACTORS

5.1 THIRD PARTY BENEFICIARY Nothing contained in the Agreement shall create any contractual relation between GLWA or any Subcontractor or Sub-Subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 Prior to executing any Subcontracts for the Work, the Engineer shall provide GLWA with a list of proposed Subcontractors for GLWA's prior review and approval (the "Subcontractor List"). GLWA may object, for any reason, to any proposed Subcontractor within a reasonable time after its receipt of the Subcontractor List. The Engineer shall not award any portion of the Work to a Subcontractor that was not nominated before execution of the Agreement, without first obtaining the Contracting Officer's written consent. If GLWA objects to any Subcontractor without cause, and such objection causes an increase in the Contract Price, GLWA shall order any adjustments in the Contract Price required to make up the difference in cost between the proposed Subcontractor and the Subcontractor approved by GLWA, or the Engineer's cost to self-perform, that part of the Work involved, whichever is applicable. The Engineer shall make no substitution for any Subcontractor, person or entity previously approved by GLWA without first obtaining GLWA's written consent.

5.2.2 The Engineer shall promptly deliver to the Contracting Officer a complete executed copy of each Subcontract awarded.

5.2.3 Upon award of a Subcontract, the Subcontractor shall identify its job-site staff and agree that such job-site staff may not be changed or reassigned (except where an individual leaves the employ of the Subcontractor or any affiliate) without the prior written consent of the Engineer. The Engineer shall consult with the Contracting Officer prior to giving consent to any proposed substitution.

5.2.4 The Engineer agrees to make every reasonable effort to utilize the Subcontractors listed in Exhibit A of the Agreement.

5.2.5 In no event shall Subcontractor costs result in an increase to the Contract Price without the prior written approval of GLWA.

5.3 SUBCONTRACTUAL RELATIONS

5.3.1 By an appropriate written agreement, the Engineer shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Engineer by the terms of the Agreement, and to assume toward the Engineer all the obligations and responsibilities which the Engineer, by the Agreement, assumes toward GLWA. Where appropriate, the Engineer shall require each Subcontractor to enter into similar agreements with his Sub-Subcontractors.

**ARTICLE 6
WORK BY GLWA OR BY SEPARATE PARTIES**

6.1 GLWA'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

6.1.1 This is not an exclusive services contract. GLWA reserves the right to (i) perform work related to the Project with his own forces; and (ii) to award separate contracts in connection with other portions of the Project or other work on the Project.

6.1.2 The Engineer will provide for the coordination of the work of GLWA's forces and of each separate engineer with the Work of the Engineer.

**ARTICLE 7
MISCELLANEOUS PROVISIONS**

7.1 OTHER PROJECTS

7.1.1 Nothing set forth in the Agreement shall constitute an agreement between the GLWA and the Engineer with respect to services other than those included in the Agreement.

7.2 NONDISCRIMINATION

7.2.1 The Engineer shall comply with Titles VI and VII of the Civil Rights Act of 1964 (Public Law 88-352, 78 STAT.266), U.S. Department of Justice Regulations (28 CFR Part 42), the Michigan Civil Rights Act (Public Act No. 453 of 1976), the Michigan Handicappers Civil Rights Act (Public Act No. 220 of 1976) and all other fair employment practices and equal opportunity laws. The Engineer shall furnish and file compliance reports within the times and in form prescribed by GLWA. Compliance reports may also elicit information as to the practices, policies, programs, and employment statistics of the Engineer and Subcontractors. The Engineer will permit access to Engineer's records and accounts by GLWA and/or its agent for purposes of investigation to ascertain compliance with the Agreement. The Engineer agrees that it will not discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment because of religion, race, color, national origin, age, sex, height, weight, marital status, or handicap that is unrelated to the individual's ability to perform the duties of a particular assignment or position. The Engineer hereby recognizes the right of the United States, the State of Michigan and GLWA to seek judicial enforcement of the foregoing covenants against discrimination, against itself or its Subcontractors connected directly or indirectly with the performance of the Agreement.

**ARTICLE 8
TIME**

8.1 SUSPENSION BY GLWA

8.1.1. GLWA may order the Engineer in writing to suspend, delay or interrupt all or any part of the Work on the Project for such period of time as it may determine to be appropriate for the convenience of GLWA. GLWA shall not be liable to the Engineer for any extra compensation

or for any damages or additional costs that the Engineer may suffer or incur from delays in performing Work or furnishing materials, or other causes attributable to GLWA's other contractors or any other persons. The Engineer's sole remedy for delays caused by GLWA or GLWA's other contractors shall be an extension of the completion date set forth in the CPM Schedule.

8.1.2 No adjustments to the Contract Time or Contract Price shall be allowed for any suspension, delay or interruption (i) to the extent that performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the Engineer; or (ii) for which an equitable adjustment is provided or excluded under any other provision of the Agreement. GLWA's exercise of any of its rights under the Agreement, or GLWA's requirement of correction or re-execution of any defective Work shall not, under any circumstances, be construed as interference with the Engineer's performance of the Work.

8.2 ACCELERATION OF PERFORMANCE

8.2.1 If GLWA shall desire the Work of the Engineer hereunder to be performed with greater speed than is herein contracted for, the Engineer shall, without affecting or abridging the rights of GLWA set forth in the Agreement, upon receipt of a written order from GLWA, specifically setting forth a request pursuant to this Section 8.2, employ overtime work as so ordered. Only the premium cost of such overtime work, as shown on the time slips checked and approved each day by GLWA shall be paid by GLWA to the Engineer as additional compensation, and no overhead, profits, costs, commissions, claims for inefficiencies or otherwise, or other costs or claims shall be charged or due with respect to use of overtime work or the acceleration of performance. This provision shall not apply to acceleration of performance caused by the Engineer's default, the cost of which shall be borne solely by the Engineer.

8.3 TIME EXTENSIONS

8.3.1 NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, ENGINEER ACKNOWLEDGES THAT NO EXTENSIONS TO THE CONTRACT TIME SHALL BE PERMITTED EXCEPT AS APPROVED IN ADVANCE AND IN ACCORDANCE WITH THE GLWA PROCUREMENT POLICY.

ARTICLE 9 WAIVER OF SUBROGATION

9.1 WAIVER OF SUBROGATION

GLWA and the Engineer waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance required under the Agreement or any other insurance actually carried by GLWA or the Engineer, respectively. The Engineer shall require similar waivers by Subcontractors and Sub-Subcontractors. All insurance policies required under the Agreement shall permit and recognize such waivers of subrogation.

**ARTICLE 10
CHANGES IN THE WORK**

10.1 CHANGES

GLWA may from time to time consider it in its best interest to change, modify or extend a term, condition or covenant of the Agreement or require changes in the scope of services to be performed by the Engineer, or require the Engineer to perform additional services not included within the Agreement. Any such change, addition, deletion, extension or modification, including any increase or decrease in the Contract Price, shall be incorporated in a written Change Order to the Agreement. Such changes, additions, deletions, extensions or modifications shall not relieve or release the Engineer from any of its obligations under the Agreement

10.2 CHANGE ORDER PROCEDURE

NO CHANGE IN THE WORK, WHETHER BY WAY OF ALTERATION OR ADDITION TO THE WORK, SHALL BE THE BASIS OF AN ADDITION TO THE CONTRACT SUM OR A CHANGE IN THE CONTRACT TIME UNLESS AND UNTIL SUCH ALTERATION OR ADDITION HAS BEEN AUTHORIZED BY A CHANGE ORDER EXECUTED AND ISSUED IN ACCORDANCE WITH AND IN STRICT COMPLIANCE WITH THE REQUIREMENTS OF THE AGREEMENT.

ANY CLAIM FOR INCREASED COST FOR DELAY SHALL BE ASSERTED IN ACCORDANCE WITH THE PROVISIONS OF THE AGREEMENT UNLESS THE TIME IS EXTENDED IN WRITING BY GLWA. ACCORDINGLY, NO COURSE OF CONDUCT OR DEALINGS BETWEEN THE PARTIES, NOR EXPRESS OR IMPLIED ACCEPTANCE OF ALTERATIONS OR ADDITIONS TO THE WORK, AND NO CLAIM THAT GLWA HAS BEEN UNJUSTLY ENRICHED BY ANY ALTERATION OR ADDITION TO THE WORK, WHETHER OR NOT THERE IS IN FACT ANY SUCH UNJUST ENRICHMENT, SHALL BE THE BASIS FOR ANY CLAIM TO AN INCREASE IN THE CONTRACT PRICE OR CHANGE IN THE CONTRACT TIME.

CONTRACT PRICE AND CONTRACT TIME SHALL BE MODIFIED ONLY BY CHANGE ORDER APPROVED IN ADVANCE AND IN ACCORDANCE WITH THE GLWA PROCUREMENT POLICY.

**ARTICLE 11
TERMINATION OF THE AGREEMENT**

11.1 TERMINATION FOR CAUSE

11.1.1 GLWA shall have the right, without prejudice to any other right or remedy it may have to terminate the Agreement upon twenty-four (24) hours prior written notice to the Engineer upon the occurrence of any of the following events of default:

11.1.1.1 The Engineer breaches a material term of the Agreement; or

11.1.1.2 The Engineer shall make an assignment for the benefit of creditors; or make an admission in writing of its inability to pay its debts generally as they become due; or

11.1.1.3 The Engineer shall voluntarily make any unauthorized changes in the personnel previously approved by GLWA; or

11.1.1.4 The filing of claims with GLWA by third parties alleging failure to pay any amount due (except disputed claims).

If the Agreement is terminated due to any of the circumstances set forth above, the Engineer shall receive no fees or reimbursable expenses other than those due for services actually rendered prior to the date of termination.

11.2. TERMINATION FOR CONVENIENCE

11.2.1 GLWA may also terminate the Agreement for its convenience at any time upon fifteen (15) days' written notice of termination to the Engineer. In such case, the Engineer shall be entitled to receive, as total compensation for all services performed hereunder to the date of termination, plus reimbursable expenses then due. Payment of such compensation is the sole and exclusive remedy of the Engineer for a termination of the Agreement by GLWA without cause and the Engineer shall not be entitled to, and hereby waives, claims for lost profits and all other damages and expenses. The Engineer shall execute a waiver and general release of claim as a condition of payment. At GLWA's option, the Engineer shall assign to GLWA all approved Subcontracts and GLWA shall indemnify and defend the Engineer against all claims for payment thereunder in respect of Work performed after the date of termination.

ARTICLE 12 AUDIT

12.1 GLWA'S ACCESS TO ENGINEER'S RECORDS

12.1.1 The Engineer agrees that GLWA or any of its duly authorized representatives shall, until the expiration of three (3) years after final payment under the Agreement, have access to and the right to examine and audit any directly pertinent books, documents, papers and records of the Engineer involving transactions related to the Agreement.

12.1.2. The Engineer shall include in the Subcontracts a provision to the effect that the Subcontractor agrees that GLWA or any of his duly authorized representatives shall, until the expiration of three (3) years after final payment under the Agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of such Subcontractor, involving transactions related to the contract. The term "Subcontracts," as used in this clause only, excludes (1) purchase orders not exceeding Two Thousand Five Hundred (\$2,500.00) Dollars and (2) subcontracts or purchase orders, for public utility services at rates established for uniform applicability to the general public.

ARTICLE 13
CONFLICT OF INTEREST

13.1 The Engineer covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the Work under the Agreement. The Engineer further covenants that, in the performance of the Agreement, no person having any such interest shall be employed. The Engineer further covenants that no officer, member or employee of GLWA and no other public official who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the Agreement has any personal or financial interest, direct or indirect, in the Agreement or in the proceeds thereof.

13.2 The Engineer also hereby warrants that it has not and will not employ any person to solicit or secure the Agreement upon any agreement or arrangement for payment of a commission, percentage, brokerage, or contingent fee, either directly or indirectly. The Engineer further agrees that if this warranty is breached, GLWA may, at its option, terminate the Agreement without penalty, liability or obligation, or may at its election, deduct from any amounts owed to the Engineer hereunder any amounts of such commission, percentage, brokerage, or contingent fee.

13.3 The Engineer agrees that neither it nor its employees will endeavor to influence GLWA's employees to seek employment with the Engineer within the duration of the Agreement and shall not for a period of one (1) year thereafter employ any of the GLWA's employees without prior written approval from GLWA. Proof of such activity as determined by GLWA may cause immediate termination of the Agreement.

13.4 The Engineer shall include the provisions of this Article in any Subcontract it enters into pursuant to the Agreement.

ARTICLE 14
CONFIDENTIAL INFORMATION

14.1 In order that the Engineer may effectively fulfill its covenants and obligations under the Agreement, it may be necessary or desirable for GLWA to disclose confidential and proprietary information to the employees pertaining to GLWA's past, present and future activities. Since it is difficult to separate confidential and proprietary information from that which is not, the Engineer shall instruct its employees and all Subcontractors to regard all information gained by each such person as a result of the Work to be performed hereunder as information which is proprietary to GLWA and not to be disclosed to any organization or individual without the prior consent of GLWA.

14.2 The Engineer agrees to take appropriate action with respect to its employees, Subcontractors and agents to insure that the obligations of non-use and non-disclosure of confidential information of the Agreement can be fully satisfied.

ARTICLE 15 CLAIMS

15.1 CLAIMS

15.1.1 A “Claim” is a demand or assertion by the Engineer seeking adjustment or interpretation of contract terms, payment of money, extension of time, or other relief with respect to the terms of the Agreement or any of the Contract Documents that the procedure for the resolution of which is not specifically provided for in the Agreement. The term “Claim” also includes all other disputes, controversies and matters in question between or among GLWA and the Engineer arising out of or in any way relating to the Agreement, the Project or the Work. Claims must be made by written notice to the Contracting Officer containing as much detail as reasonably possible. The burden for substantiating any Claim shall rest with the Engineer.

15.1.2 Except as otherwise specifically provided in this Agreement, Claims by the Engineer must be made promptly and within twenty (20) days, unless a longer period is granted by writing, after the Engineer first recognizes the condition giving rise to the Claim, whether or not any impact in money or time has been determined. **IN NO EVENT SHALL THIS PROVISION BE DEEMED TO EXTEND THE PERIOD OF TIME FOR THE ENGINEER TO MAKE CLAIMS FOR AN EXTENSION OF THE CONTRACT TIME OR ADJUSTMENT TO THE CONTRACT PRICE AS PROVIDED IN THE OTHER PROVISIONS OF THE AGREEMENT, WHICH PROVISIONS AND TIME PERIODS ARE TO BE STRICTLY ADHERED TO BY THE ENGINEER.**

15.1.3 Pending final resolution of a Claim, the Work shall continue unabated, the Engineer shall proceed diligently with performance of the Work, and the GLWA shall continue to make payment in accordance with the Contract Documents, except as to amounts in good faith dispute.

15.2 CLAIMS FOR ADDITIONAL COST

15.2.1 Subject to the limitations and other time limits contained herein, if the Engineer wishes to make a Claim for an increase in the Contract Price, to the extent the Claim is reasonably discoverable, written notice of it shall be given to the Contracting Officer before the Engineer proceeds to execute the Work for which the Claim is made. Prior notice is not required for Claims relating to bona fide emergencies endangering life or property. All Claims for adjustment to the Contract Price shall be supported by such documentation as the Contracting Officer shall require.

15.3 INJURY OR DAMAGE TO PERSON OR PROPERTY

15.3.1 If the Engineer suffers injury or damage to person or property because of an act or omission of GLWA, or its employees or agents, or others for whose acts GLWA is legally liable, prompt notice of such injury or damage shall thereafter be given within a reasonable time and not exceeding twenty-four (24) hours in the case of serious personal injury or damage or seventy-two (72) hours in all other cases after first observance. The notice shall provide sufficient detail to enable GLWA to investigate the matter.

15.4 SUBMITTAL OF CLAIMS; RESOLUTION

15.4.1 All Claims shall be submitted to the Contracting Officer. Any mutual agreement reached shall be final and binding upon the parties.

15.4.2 All Claims which are not asserted and pursued strictly (not substantially) in accordance with the provisions of this Article shall be deemed to have been waived and forever barred, regardless of whether the Engineer is prejudiced thereby.

15.4.3 The resolution of all Claims under this Article resulting in a change in the Contract Price or Contract Time shall be memorialized by a Change Order. The provisions of this Article shall survive the completion of the Work and termination of the Agreement.

(End Exhibit C – General Conditions)

EXHIBIT D
COSTING SUMMARY

EXHIBIT E

DESIGNATION OF NOTICE ADDRESS

Notices to the Contractor should be sent to:

Name _____
Title _____
Company _____
Address _____

(End Exhibit E – Designation of Notice Address)

EXHIBIT F
INSURANCE

A. **INSURANCE REQUIRED**

Until completion and final acceptance of the Work, Engineer shall purchase and maintain Worker's Compensation Insurance, Employer's Liability Insurance, Direct Liability Insurance for Engineer's own operations, Contingent Liability Insurance for the operations of Subcontractors and Contractual Liability Insurance to insure the indemnifying portions of the Agreement, such insurance to include Bodily Injury Liability and Property Damage Liability. Certificates of such insurance (and copies of policies if requested) shall be filed with the Contracting Officer and shall be subject to its approval for adequacy of protection and the satisfactory character of the insurer, but in no case shall they be less than the following limits:

1. **Worker's Compensation** shall conform to statutory limits under Michigan law and **Employers' Liability** limit of \$1,000,000 each accident/each employee disease/policy limit disease.
2. **Commercial General Liability** including Premises-Operations, Independent Contractors' Protective, Products and Completed Operations, Property Damage Liability, Contractual Liability, and Personal Injury with the following minimum limits and other specifications:
 - a. Minimum limits of:
 - \$1,000,000 Each Occurrence
 - \$2,000,000 General Aggregate
 - \$1,000,000 Personal and Advertising Injury
 - \$2,000,000 Products-Completed Operations Aggregate
 - b. Products and Completed Operations to be maintained for one (1) year after final payment.
3. **Comprehensive Automobile Liability** covering all owned, non-owned and hired vehicles for Bodily Injury and Property Damage as follows:
 - a. Minimum limit of \$1,000,000 each accident – combined single limit.
 - b. Deductible amount shall not exceed \$25,000.
4. **Umbrella/Excess Liability**, with minimum limits of \$4,000,000 each occurrence and \$4,000,000 aggregate, which shall provide excess limits over the commercial general liability, auto liability and employers' liability policies.
5. **Professional Liability (errors and omissions)**, with minimum limits of \$3,000,000 each occurrence and \$3,000,000 aggregate, to be maintained for a period of three (3) years following completion of the Project or such period as may be specified by GLWA (which will extend, at a minimum, through the applicable warranty period).

6. Any other insurance as may be required by applicable federal, state or local laws, ordinances, rules, regulations or orders.

B. OTHER INSURANCE SPECIFICATIONS

1. Engineer shall require all Subcontractors, if any, performing design and other architectural or engineering services hereunder to maintain professional errors and omissions coverage in connection with subcontracted work. All professional errors and omissions insurance shall be endorsed to provide contractual liability coverage, shall be in amounts approved by GLWA prior to the execution of any Subcontract including design or engineering responsibilities, and shall be maintained for a period of three (3) years or such period as may be specified by GLWA (which will extend, at a minimum, through the applicable warranty period). Certificates of such coverage shall be filed with the Contracting Officer prior to commencement of the Work.

2. All policies required to be maintained by Engineer shall be written on an occurrence basis, if the same is commercially available.

3. The commercial general liability insurance shall include an endorsement naming the "Great Lakes Water Authority" and others designated by GLWA as additional insureds.

4. The commercial general liability and umbrella/excess liability policies shall be or shall be endorsed to be primary and non-contributory and any similar or additional insurance maintained by GLWA shall be secondary and excess to that carried by Engineer or any Subcontractor.

5. The workers' compensation, commercial general liability and automobile liability policies shall be endorsed with a waiver of subrogation on either a blanket basis or in favor of GLWA.

6. All policies required by this Agreement shall be issued by insurers authorized to conduct business in Michigan or which have an A.M. Best's rating of A-/VIII or better. GLWA reserves the right to reject any insurer who is involved in an ongoing claims dispute with GLWA or whose claims response history is not otherwise satisfactory to GLWA.

7. For any policy required by this Agreement, Engineer shall provide to GLWA thirty (30) days' written notice of cancellation and ten (10) days' notice for cancellation due to non-payment of premium.

8. Before commencing the Work, Engineer shall furnish to GLWA a certificate from its insurance carrier showing that it has complied with the provisions of this Exhibit F.

9. In the event of failure of Engineer to furnish and maintain such insurance or to furnish a satisfactory certificate therefor, GLWA shall have the right to take out and maintain the said insurance for and in the name of Engineer, and Engineer agrees to furnish all necessary information to permit GLWA to take out and maintain such insurance for the account of Engineer and to pay the cost thereof to GLWA immediately upon presentation of a bill. Compliance by

Engineer with the foregoing requirements as to carrying insurance and furnishing certificates shall not relieve Engineer from liability under the Agreement.

C. GENERAL TERMS

1. If GLWA is damaged by the failure of Engineer to purchase or maintain any insurance or bond required by the Agreement then Engineer shall pay all costs incurred by GLWA, including but not limited to reasonable attorney's fees.

2. Any insured loss under the required policies of property insurance will be adjusted with GLWA and will be made payable to GLWA as trustee for the insured. GLWA shall deposit in a separate account, and shall distribute monies received, based on any agreement that the parties in interest may reach. If no other distribution agreement is reached, the damaged Work shall be replaced or repaired, the monies received shall be used for that purpose and the Work involved and resulting costs shall be covered by Change Order. GLWA as trustee shall have the power to adjust and settle any loss with the insurers unless a party in interest objects in writing within fifteen (15) days following the occurrence of loss to GLWA's exercise of this power. If an objection is made, GLWA as trustee shall settle with the insurers pursuant to any agreement that the parties in interest may reach.

3. If by the terms of the insurance a mandatory deductible is required, Engineer shall be responsible for the deductible amount in the event of a paid claim. Engineer shall also be responsible for any co-insurance penalties.

(End Exhibit F – Insurance)

[INSERT INSURANCE CERTIFICATE]

EXHIBIT G

GLOSSARY

Agreement	The written agreement executed between the Engineer and GLWA including each of its Exhibits, and any Change Orders, as approved by the Engineer and GLWA in accordance with the GLWA Procurement Policy.
Allowance	Refers to either a Cash Allowance or a Provisionary Allowance, as each item is defined in this Glossary.
Application for Payment	The Engineer's certified request for payment for completed portions of the Work.
Cash Allowance	A sum specified by GLWA included within the Contract Price to reimburse the Engineer for actual purchase/furnished cost of required materials, equipment or other designated items that are to be furnished as part of the Work, as provided in the Agreement. Although the scope (i.e., the required quantity) of any portion of the Work covered by a Cash Allowance is sufficiently detailed in the Agreement for the equipment and supplemental costs, it is understood that the required materials, equipment or other designated items are either of uncertain purchase cost at the time the Agreement is executed or are yet to be specified in more detail by the Contracting Officer as to quality, appearance, durability, finish and such other necessary features. Any remaining balance of the Cash Allowance upon final completion of the Work shall be retained by GLWA and not paid to the Engineer.
CEO	The Chief Executive Officer of GLWA.
Change Order	A written amendment to the Agreement signed by GLWA and the Engineer that authorizes a change in the Work, an adjustment in the Contract Price or Contract Time, or both.

Construction Documents	Drawings and Specifications which set forth in detail the requirements for the construction of the Project, including revisions to adequately and properly address comments by the Contracting Officer and comments and changes required by others pursuant to the Contract Documents.
Contract Price	The sum stated in the Agreement that is the total amount payable by GLWA to the Engineer for the performance of the Work.
Contract Time	The period of time allotted in the Contract Documents for completion of the Work, including authorized adjustments.
Contracting Officer	The CEO or an employee of GLWA named as such by the CEO.
Contractor	The entity that contracts with GLWA for construction of the Project designed by the Engineer.
CPM Schedule	A schedule or diagram of all events expected to occur and operations to be performed in completing the Work, approved in writing by the Contracting Officer and rendered in a form permitting determination of the optimum sequence and duration of each operation.
Design Development Documents	All documents that manifest the design for the Project or any portion, component or element thereof, as the case may be, including revisions to adequately and properly address comments by the Contracting Officer and comments and changes required by others.
Drawings	Graphic and pictorial documents depicting the design, location and dimensions of the elements of the Project.
Final Completion	The date on which the Work has been completed in accordance with the terms and conditions of the Agreement and accepted by the Contracting Officer in writing.
Final Payment	Payment made by GLWA to the Engineer of the entire unpaid balance of the Contract Price as adjusted by Change Orders.

Notice to Proceed	Written communication issued by the Contracting Officer to the Engineer authorizing the Engineer to proceed with the Work and establishing the date for commencement of the Work.
Project Manager	The individual designated by the Engineer to manage the Engineer's activities in connection with the Project.
Provisionary Allowance	An amount included in the Contract Price to reimburse the Engineer for the cost to furnish and perform Work that is uncertain, i.e., may not be required, or of indeterminate scope, i.e., design information and quantities, complexity, etc. are neither shown nor detailed in the Agreement. Work authorized under any Provisionary Allowance may consist of (a) changes required by actual conditions, as determined by the Contracting Officer, that are incorporated into the Work in accordance with the Agreement, and (b) any other work authorized and completed under the pertinent provisions of the Agreement. Unlike a Cash Allowance, payments under a Provisionary Allowance shall include not only the purchase and finished cost of materials and equipment involved, but also all associated labor, Subcontracts, construction equipment and supplemental costs, provided those costs are substantiated as required by the General Conditions. Any remaining balance upon final completion of the Work shall be retained by GLWA and not paid to the Engineer.
Schematic Design Documents	Drawings and other documents illustrating the scale and relationship of project components.
Specifications	A part of the Contract Documents consisting of written requirements for materials, equipment, construction systems, standards and workmanship.
Subcontract	Agreement between the Engineer and Subcontractor for performance of a portion of the Work.
Subcontractor	A person or entity who has a direct contract with the Engineer to perform any of the Work.
Sub-subcontractor	A person or entity who has a direct or indirect contract with a Subcontractor to perform any of the Work.

Work	The services required by the Agreement including all labor, materials, equipment, and services provided or to be provided by the Engineer to fulfill the Engineer's obligations. The Work may constitute the whole or any part of the Project.
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(End Exhibit G – Glossary)